

NEWS NOTES

OF THE CENTRAL COMMITTEE FOR CONSCIENTIOUS OBJECTORS

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Philadelphia, Pa.

Little Hope For Pardons

Conviction of Agnostic Upheld

The Ninth Circuit Court of Appeals last June upheld the 1954 conviction of Arthur P. Clark who was sentenced to four years in prison by the U.S. District Court in Los Angeles for refusing induction into the armed forces.

Clark, a Unitarian C.O., was denied a C.O. classification in 1951 by Selective Service on the ground that he did not believe in a Supreme Being. He refused induction and in March, 1953, was brought to trial. The case was dismissed on motion of the Justice Department when the judge ordered the F.B.I. reports admitted into evidence.

Clark's draft board reopened his classification and again classified him I-A. Clark appealed. The Justice Department ruled that since Clark did not believe in a Supreme Being he did not come under the definition of conscientious objector as stated in the law. He was therefore not entitled to the appeal provisions accorded C.O.'s.

The draft law requires a C.O. to be opposed to war by reason of religious training and belief, which is defined in the law as "a belief in a Supreme Being involving duties superior to those arising from any human relation." In filling out the C.O. questionnaire, Clark answered "no" to the question, "Do you believe in a Supreme Being?" and added, "I do not know whether or not a Supreme Being exists."

The Circuit Court held that Clark was the type of objector the statute was designed to exclude and that he was not entitled to an investigation and hearing by the Justice Department. Even if he were held to come within the C.O. provision he was not entitled to a second hearing and investigation unless new information and issues were involved.

The court dismissed Clark's argument that the Supreme Being clause offended the First Amendment to the Constitution which states that "Congress shall make no law respecting an establishment of religion . . ." The court held that Congress is free to determine the persons to whom it will grant exemption from participation in war.

J. B. Tietz, well known Los Angeles attorney, has petitioned the U.S. Supreme Court for a writ of certiorari to consider the constitutionality of the Supreme Being clause in the draft law definition of conscientious objector.

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Justice Department Insists C.O.'s Agree To Obey Draft Law as Pardon Condition

Reed Cozart, United States Pardon Attorney, in a recent interview with George Willoughby, stated the policy of the Department of Justice governing the granting of pardons to conscientious objectors convicted of violating the Selective Service Laws of 1940 and 1948.

According to Cozart, applications for pardons from C.O.'s will be considered by his office if the applicant has served honorably in the military forces or in civilian work for C.O.'s after conviction of violating the draft law; or if the applicant agrees to obey all laws, including the draft law; or if the applicant is over 35 years of age and no longer subject to Selective Service.

Applicants for pardon are investigated by the F.B.I. Association of the applicant's name with any group on the Attorney General's list of subversive organizations will likely result in a rejection of the application.

The current policy of the Justice Department offers little hope for pardons to C.O.'s under 35 years of age. Any prison C.O. still within the military age who declines to comply with the provisions of the draft law, will not receive favorable consideration on an application for pardon.

The requirement that the C.O. agree to obey the draft law will prevent pardons for most younger C.O.'s. In effect, the government asks the C.O. to violate his conscience if he wants a pardon.

Since most World War II C.O.'s are over 35 they might be eligible for pardons since they are beyond military age.

Only a few C.O.'s have requested pardons during the past years. An even smaller number have been granted. On recommendation of President Truman's so-called "Amnesty Committee," 1,523 C.O.'s were pardoned in 1947.

Applications for pardon must be recommended by the U.S. Pardon Attorney and have the endorsement of the Attorney General. The President must give final approval. Applicants who are rejected may apply again.

Conviction of a draft law violation is a felony. A felon loses certain rights of citizenship, such as the right to vote, in some states. The loss of civil rights varies from state to state. A pardon, in effect, restores these rights to the individual. Pardon application blanks and instructions for filing can be secured from the Pardon Attorney, Department of Justice, Washington, D.C.

Tatum is New Co-Chairman

Lyle Tatum, AFSC secretary for the Middle Atlantic regional office and former CCCO executive secretary, was appointed co-chairman of CCCO for a two-year term on CCCO's executive committee. He succeeds Ray Newton who has been active with CCCO for several years. A. J. Muste was reappointed as the other co-chairman.

Caleb Foote, University of Pennsylvania law professor and former CCCO executive, was appointed for a three-year term to the executive committee. He will also serve as a treasurer, succeeding Allen Olmsted, II. Gregory Votaw, of Philadelphia, was also appointed to the executive committee.

Kenneth Cuthbertson and Ernest Kurkjian, both from Philadelphia; and Julius Eichel, Robert Fishman and Lester Packer, all from New York City, were reappointed to the executive committee.

Doctors Draft to End

The Defense Department indicated it plans to stop drafting doctors over the age of 35 and may let the special draft law for doctors die next year. The military will rely on the regular draft to secure physicians and dentists. Congress will be asked to insert a special provision in the regular draft act to permit calls of doctors or dentists in time of need.

The doctor draft expires next June 30. It has been in effect since September, 1950, after the outbreak of the war in Korea. At that time the armed forces were unable to get enough physicians and dentists as volunteers.

The law was extended in 1951, 1953, and 1955. More than 30,000 physicians, dentists, and veterinarians were called to duty under its provisions. Under the doctor's draft men could be called up to the age of 50. The American Medical Association and American Dental Association have protested the law as discriminatory.

C.O. Climbs to Stardom

Don Murray currently starring with Marilyn Monroe in the film "Bus Stop" is one C.O. who made the bright lights. Murray, a member of the Church of the Brethren, took the C.O. position during the Korean War. He served with the Brethren Service Commission as a stone-cutter and mason in Kassel, Germany, where he helped to build a headquarters for the Brethren refugee work. Later he went to Naples, Italy to work in a refugee camp.

Murray was married in April to Hope Lange, who is also playing in "Bus Stop." Murray's contract with Fox films calls for him to make two pictures a year, with every third year off. Murray, who is planning to set up a refugee project near Naples said, "We don't need all the money we're making now and I'd like to finance and direct such a project."

Briefly Noted

Martin Oppenheimer, graduate student at the University of Pennsylvania, began his duties September 10 as CCCO administrative assistant, succeeding Carl Dahlgren who left in July.

Trevor Teele was arrested late in July in Ithaca, N. Y. for refusal to take cover during the July 30 civil defense drill in that city. Teele entered a plea of guilty and was fined \$10. Teele stated that he refused to cooperate with the drill since to have done otherwise would be to acquiesce in civil defense by his silence. He stated that it was his duty to make his opinion known.

The December issue of *Battle Cry* magazine, one of the popular war story magazines, carries a story about conscientious objectors in the U.S. during World War II. "I Refused to Fight" is the story of a C.O. who served in civilian public service camps and then went into the Army medical service as a noncombatant. The writer, who remains anonymous, does not call himself a religious objector. He thinks violence is stupid. He did not "want to murder some poor slob drafted into the Jap, German, or any other Army. The glorified boy-scout stuff of uniforms, marching, saluting and so forth, seems ridiculous to me."

The Davidson Defense Committee is conducting a petition campaign urging President Eisenhower to grant Executive Clemency to Vern Davidson, Los Angeles C.O. now serving a three-year sentence in Tucson Federal Prison for refusing induction into the armed forces. Copies of the petition can be obtained by writing Rina Garst, 167 West 60th St., New York 23, N. Y.

The War Resisters' International has set aside December 1 as PRISONERS FOR PEACE DAY in honor of all those known and unknown who are in prison as a result of their refusal to participate in the armed forces of their countries. This date was selected as an appropriate date for the addressing, signing and posting of Christmas greetings to imprisoned war resisters. The U.S. branch of the WRI is making plans for a poster walk in Washington, D.C. on December 1. For further information about the Washington demonstration write to the War Resisters League, 5 Beekman Street, New York 38, N. Y.

According to Hayden Covington, legal counsel for the Jehovah's witnesses, 25 J.W. cases were won or dismissed in the federal courts for the year ending June, 1956. At least 70 J.W.'s languish in federal prisons today. This is the lowest figure for many years.

The Washington Newsletter of the Friends Committee on National Legislation for October, 1956, reports that 69.8% of federal appropriations for the current fiscal year will go for military expenses, 8.1% for past wars, and 22.1% for non-military spending. Copies of the October issue of the Washington Newsletter can be secured by writing FCNL, 104 C Street, N.E., Washington 2, D.C.

Helms Gets Second Sentence

William M. Helms, 24-year-old machinist from Richmond, California, was sentenced in September to one year in prison for refusal to accept induction into the armed forces. Helms refused the services of an attorney and told the court that warfare is forbidden by the Bible. In 1954 William Helms served an eight-month sentence for refusing military duty.

Helms told Federal Judge Goodman that he was willing to do forestry work if the court would permit. The Judge refused and stated "This being the second violation of the statute, I feel all the court can do is simply pass a judgment of imprisonment."

The second conviction of William Helms is the latest in a long series of second prosecutions of C.O.'s. The Department of Justice has refused to alter its policy on second prosecutions. The problem could be solved by administrative action. The Department of Justice could refuse to prosecute a second time as a matter of policy because of the previous conviction for refusal to cooperate with the draft law, or in recognition of freedom of religious expression. The right of the Department of Justice to decide not to prosecute is explicitly stated in law and clearly evident in practice.

Some federal judges have dealt with second prosecutions by giving only token sentences or placing the C.O. on probation.

Robert Lyon Resigns

Robert Lyon has resigned as C.O. Services secretary for the American Friends Service Committee, to accept appointment as executive secretary of the AFSC office in Cambridge, Mass.

Lyon came to AFSC's C.O. Services as field secretary in 1953. He succeeded George Willoughby as executive in March of 1956. Lyon previously served as F.O.R. secretary in New England for some years.

Don Reeves, administrative assistant to Lyon, will carry on C.O. Services until a successor is appointed.

CONVICTION UPHELD

(Continued from page 1)

tor. Tietz contended that the law discriminates against religions that do not believe in a Supreme Being and against individuals whose religion is not expressed in orthodox terms. If the Supreme Court grants the petition, it will have opportunity to review several procedural matters also being contested in the case.

Just last year the Supreme Court refused to consider the Supreme Being question in the Vern Davidson case, also from the Ninth Circuit. Tietz, in his petition for a hearing before the Supreme Court, pointed out significant differences between the two cases.

Stain Conviction Reversed

The Ninth Circuit Court of Appeals in June reversed the conviction of Albert Stain, Portland, Oregon, for refusing to report for induction. Federal Judge McColloch of the federal district court in Portland had sentenced Stain to six months in prison in April, 1955.

When Stain returned from Canada in January, 1949, he registered with his local draft board. He did not request the special classification form for C.O.'s. He was classified I-A and took no appeal.

Later, in 1950, he was ordered to report for a pre-induction physical examination which he passed. During the examination he made reference to his conscientious objection to military duty and was informed by the examiner that he should apply for the special C.O. classification form from his local board.

Stain immediately requested the form, filled it out and returned it to his draft board. The board refused to reopen his classification on the ground that he had passed the physical examination and had been found acceptable for military service without protest. The board failed to notify Stain of its refusal to reopen his classification. Stain refused induction into the army when ordered by his board and indictment followed.

Bernhard Fedde, attorney for Albert Stain, argued that Stain had been denied procedural due process by the draft board by its arbitrary refusal to consider his conscientious objector form upon its merits. The Government argued that Stain had not exhausted his administrative remedies by failing to appeal the I-A classification. The district court found him guilty.

In reversing the district court, the Ninth Circuit Court held that the local board should have reopened Stain's classification as provided by Selective Service regulations since the information contained in the C.O. form amounted to new information. The board's refusal to reopen his classification was a violation of due process. The court held that the "cut off" date for refusing to reopen the case was the mailing of the order for induction.

Thank Churches for Draft Help

General Hershey addressed a recent luncheon meeting in Washington of church agencies which support the civilian work program for C.O.'s. He stated that when Congress ordered conscientious objectors to perform alternative service in 1951 during the Korean war, the law required the assignment of C.O.'s to work but did not say anybody had to employ them. "We were faced with a very difficult situation," he observed, "until you folks came along and solved it for us."

Arthur S. Flemming, Director of Defense Mobilization, expressed the appreciation of President Eisenhower and other government leaders for the "splendid job" the churches and voluntary agencies had done in making the C.O. work program "achieve constructive ends."

The American University of Beirut reports that the student body, representing 50 nationalities and 20 religions, must attend compulsory chapel every morning. C.O.'s to chapel must attend a philosophy seminar.

Miner Gets Courtmartial

Loren Miner, formerly of Los Angeles, was sentenced by Army courtmartial early in October to 15 days restriction to the post and fined \$35 in pay for being absent without leave for three days. The courtmartial also ordered him to "restrain his feelings and channel his thoughts properly."

Miner volunteered for three years of Army duty in 1955. After serving some months in a military police unit at Fort Devens, Mass. he became a conscientious objector to all military duty. While guarding prisoners he was reprimanded for fraternizing with the prisoners.

He sought counsel from the post chaplain and finally requested an honorable discharge as a conscientious objector. In his request for discharge Miner stated, "I accept the law of God, which is love, but I reject completely the authority of man, which is retaliation. I will resist the support of government by the payment of taxes; I will resist conscription; I will resist the preparation for defense." Miner expressed willingness to do non-combatant duty while his request for discharge was being processed. Miner refused to accept his military pay. Shortly after, Loren Miner was transferred to Camp Drum, New York.

After several weeks Miner went AWOL from his post. Friends persuaded him to return after three days. He was then transferred back to Fort Devens where he was courtmartialed. He refused to go out on the rifle range and was assigned to guard the barracks.

Rowland Watts, staff counsel for the American Civil Liberties Union, brought Miner's request for discharge to the attention of the Secretary of the Army. The Adjutant General's office requested that the case be forwarded to Washington for attention.

Miner's case is typical of the C.O. in the military who objects to both combatant and noncombatant duty. While the Army has specific procedures whereby a C.O. to combatant duty may be transferred to noncombatant assignment, the Army refuses to establish definite provisions for the discharge of C.O.'s who object to all military duty. A few C.O.'s have secured honorable discharges for convenience of the government. Others have been courtmartialed and dishonorably discharged.

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THE COURT REPORTER

I PROSECUTIONS

Sentences

(None reported since September issue of The Court Reporter.)

Appeals

6-15-56 Albert Stain, conviction reversed, Ninth Circuit Court of Appeals

6-20-56 Arthur P. Clark, conviction affirmed, Ninth Circuit Court of Appeals. Petition for certiorari to Supreme Court.

Indictment dismissed, not reported previously

7-55 Wilson Couch (Cleveland, Ohio)

Arrests since last issue

(None reported)

Arrests not reported previously

Missouri—Reinhold Abele (free on \$1,000 bail)
(All prosecutions for refusal to report for or submit to induction unless otherwise noted.)

II RELEASED FROM PRISON

On parole

7-15-56 James Francy

III MEN CURRENTLY IMPRISONED

Mill Point, W. Va.—Enos Yoder, Levi Lehman, Abraham Bontrager

Tucson, Ariz.—Vern Davidson

Institution not verified—William M. Helms

Total number of C.O.'s convicted since 1948 to date: 311. (This is a minimum number; J.W.'s and Muslims are not included, and we miss a few.)

"Our sole safeguard against the very real danger of reversion to barbarism is the kind of morality which compels the individual conscience, be the group right or wrong. The individual conscience against the bomb? Yes, there is no other way. The thing for us to fear today is not the atom, but the nature of man lest he lose either his conscience or his humility before the inherent mystery of things."

(An editorial in LIFE August 20, 1945, page 32, following the atom bombing of Hiroshima.)

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